IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition 20450 of 2006

Date of decision: 22.12.2006

Anand Electro Fab Cables Pvt Ltd …Petitioner

Versus

Lal Chand and others …Respondents

CORAM: HON'BLE MR JUSTICE S.S.NIJJAR.
HON'BLE MR JUSTICE S.S.SARON.

Present: Mr Mrigank Sharma, Advocate, for the petitioner.

The petitioner-Management, by way of the present petition under Articles 226/227 of the Constitution of India seeks quashing of the award dated 14.5.2002 (Annexure P1) passed by the learned Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat (respoindent-3) (Labour Court – for short). In terms of the said award of the Labour Court, Lal Chand - Workman (respondent-1) has been reinstated in service with continuity of service and full back wages. A further prayer is made for quashing the order dated 1.3.2006 (Annexure P2) vide which the Labour Court (respondent-3) has, on an application under Section 33-C(2) of the Industrial Disputes Act, 1947 (Act – for short) directed the payment of wages amounting to Rs 1,16,413.82.

The case set up by respondent-1-Workman was that he worked with the petitioner-Management continuously for the period from 10.5.1998 to 4.2.2000 as a Security Employee on monthly wages of Rs 1800/-. He used to work 12 hours per day. On 4.2.2000, he asked the petitioner-Management to pay him the minimum wages @ Rs 1902/- per month. On account of this, the

Management got annoyed and by a verbal order, terminated his services in violation of the provisions of Sections 25F, 25G and 25H of the Act. He, by a demand notice dated 11.2.2000, raised an industrial dispute which was referred by the State Government under Section 10(1)(c) of the Act to the Labour Court. The petitioner-Management in the proceedings before the Labour Court was proceeded against exparte on 16.1.2002. In his exparte evidence, the respondent-1 Workman reiterated his claim. He stated that he worked for more than 240 days and wages were given to him on the voucher of Divine Manpower and Security Services, Delhi but he worked with the petitioner-Management under the directions of its Officers. He stated that there were two Chowkidars of day and night. In proof of the same, he tendered the security attendance register and entry register which were Mark – A, Mark – B and Mark – C. The petitioner-Management did not lead any evidence before the Labour Court as it had been proceeded against exparte. The Labour Court, after due consideration of the case vide its order dated 14.5.2002 (Annexure P1) set aside the termination of respondent-1 Workman and ordered his reinstatement in service with continuity of service and full back wages from the date of the demand notice. Thereafter, respondent-1 Workman filed an application under Section 33C(2) of the Act in which he claimed wages to which he was entitled to for the period from 11.2.2002 to October 2004. Copies of the application were given to the petitioner-Management but again none appeared on its behalf. Accordingly, it was proceeded against exparte. The respondent-1 Workman appeared as AW1 and proved his case. In view of the award dated 14.5.2002 (Annexure P1), it was held by the Labour Court that as per details given of the impugned period by respondent-1 Workman in his application, a sum of Rs 1,16,413.82 was due towards the petitioner-Management as arrears of wages for the period from 11.2.2002 to October

2004. The application of respondent-1-Workman was allowed exparte on 1.3.2006 (Annexure P2). The said orders (Annexures P1 and P2), as already noticed, are assailed in the present petition.

We have heard learned counsel for the petitioner and perused the paper book.

It is submitted that the petitioner-Management was proceeded against exparte in the award dated 14.5.2002 (Annexure P1) despite the fact that after receiving the letter from the Labour Court, Panipat, Shri Mahabir Singh, Retired Subedar, appeared on behalf of the petitioner in the capacity of Administrative Officer and apprised the Labour Court that respondent-1 Workman was never an employee of the petitioner-Management as he was deployed as a Security Guard through Divine Manpower and Security Services (respondent-2), a registered Security Contractor. The petitioner got the knowledge of the exparte award dated 14.5.2002 (Annexure P1) along with the orders dated 1.3.2006 (Annexure P2) when notice in this regard was sent to it for compliance of the said orders. A reference is made to the muster rolls of April 2005 (Annexure P3) for the month of July 2006 (Annexure P4) which, according to the petitioner, shows the names of all the employees along with their designation of work. However, as the Security Guards were never employees of the petitioner-Management and never formed part of it, therefore, their names have not been mentioned in the said muster rolls. It is primarily contended that respondent-1 Workman was never an employee of the petitioner-Management as he was never a part of its establishment.

After giving our thoughtful consideration to the matter, we find no merit in the contentions raised. The exparte award was passed by the Labour Court (respondent-3) on 14.5.2002. Thereafter, the application filed by respondent-1 Workman under Section 33C(2) of the Act was allowed on

1.3.2006 (Annexure P2). Except for the bald statement that Mahabir Singh, Retired Subedar appeared on behalf of the petitioner Company before the Labour Court and apprised it that respondent-1 was never its employee, nothing has been placed on record to substantiate the same. It is not disputed that notice to appear was received by the petitioner-Management inasmuch as it has stated that one Mahabir Singh, Retired Subdedar appeared on behalf of the petitioner-Company in his capacity as Administrative Officer. However, no material has been placed on record by way of written statement or affidavit that may have been filed before the Labour Court taking the aforesaid stand as is now urged in the present petition. The order of the Labour Court records that the petitioner-Management was proceeded against exparte. Therefore, it cannot be said that Mahabir Singh a representative of the petitioner-Company appeared before the Labour Court. The proceedings as recorded by the Labour Court are to be taken as final and conclusive. Besides, the award was passed by the Labour Court as far back as 14.5.2002 and nothing has been shown as to why the petitioner-Management slept over the same for a period of 4 years. The present petition was filed on 21.12.2006. In ***P.S.Sadasivaswami v. State of Tamil Nadu*** AIR 1974 SC 2271, it was held as under:-

> "It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The

petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work."

In fact even after the passing of the exparte award on 14.5.2002, the respondent-1 Workman filed an application under Section 33C(2) of the Act in which again the petitioner-Management was proceeded against exparte. Nothing has been placed on record to show as to why despite issuance of notice, it did not appear before the Labour Court in the subsequent proceedings under Section 33C(2) of the Act. The order dated 1.3.2006 (Annexure P2) is in the nature of execution of the Award passed by the Labour Court.

In the aforenoticed circumstances, it would be improper to entertain the writ petition at this stage or even appreciate evidence that the petitioner-Management has now placed on record. This was the domain of the Labour Court and for reasons best known, the petitioner-Management did not appear before it.

For the foregoing reasons, there is no merit in the present petition and the same is accordingly dismissed.

(S.S.NIJJAR)
JUDGE

22.12.2006.
ASR

(S.S.SARON)
JUDGE

WHETHER FIT FOR INDEXING : YES/NO